

SIKKIM



GOVERNMENT

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**GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK**

No. 11(656)L&PAD/2021/10

Dated: 12.09.2022

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 25th day of August, 2022 is hereby published for general information :-

THE SIKKIM PUBLIC SERVICES DELIVERY

(RIGHT TO SERVICE) ACT, 2022.

(ACT No. 15 of 2022)

AN

ACT

to provide for delivery of transparent, efficient and timely public services to the eligible persons in the State of Sikkim and for matters connected therewith or incidental thereto.

WHEREAS Public Service Delivery is one of the core functions of the State Government and the quality and timely delivery of services is one of its major objectives;

AND WHEREAS the Government of Sikkim is committed to deliver quality public services in a timely manner and therefore it is deemed expedient to make a comprehensive law to provide for delivery of transparent, efficient and timely public services to the eligible persons in the State of Sikkim and to bring transparency and accountability in the Department and agencies of the Government and other Public Authorities which provide public services to the eligible persons.

Be it enacted by the Legislature of Sikkim in the Seventy-third Year of the Republic of India as follows:-

Short title, extent, commencement and application.

1. (1) This Act may be called the Sikkim Public Services Delivery (Right to Service) Act, 2022.
- (2) It extends to the whole of the State of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.
- (4) It shall apply to such Public Authorities which provide services to the eligible persons as per the provisions of any laws, rules, notifications, orders, Government Resolutions or any other instruments.

Definitions.

2. In this Act, unless the context otherwise requires,-
 - (a) "Appellate Authority" means an officer appointed by the concerned public authority under sub-section (3) of Section 3;
 - (b) "Chairperson" means the Chairperson of the Sikkim Public Service Delivery Commission constituted under sub-section (1) of Section 10 of the Act;
 - (c) "Commission" means the Sikkim Public Service Delivery Commission constituted under sub-section (1) of Section 10;
 - (d) "Competent Authority" means the Disciplinary Authority or the Controlling Officer, as the case may be;
 - (e) "Department" means a Department of the State Government or of a public authority, as the case may be;
 - (f) "Designated Officer" means an officer who is required to provide public services to the eligible persons;
 - (g) "eligible person" means a person who is eligible for obtaining a public service and also includes a legal person;
 - (h) "Government" or "State Government" means the Government of Sikkim;
 - (i) "Local Authority" means any authority, Municipal Corporation, Municipal Council, Nagar Panchayat, Industrial Township, Planning Authority, Zilla Panchayat, Panchayat Samiti and Village Panchayat and other local self-Governments constituted by law; and also includes Development Authorities or other statutory or non-statutory bodies;
 - (j) "Member" means the member of the Commission;
 - (k) "prescribed" means prescribed by the rules made under this Act;
 - (l) "Public Authority" means,-
 - (a) Secretary in charge or Head of a Government Department;
 - (b) District Collector in respect of all Government Offices located within the District, other than (a) above;
 - (c) Managing Director, Chief Executive Officer, Director or Administrative Head of an organization or authority or body

or corporation or institution or a local authority, established or constituted:-

- (i) By or under the constitution of India, in the State;
- (ii) By any other law made by the State Legislature;
- (iii) By notification issued by the State Government and includes;
- (d) an institution, a co-operative society, a government company or an authority owned, controlled or financed by the State Government; or
- (e) any non-governmental organization receiving financial assistance from the State Government;
- (m) "Public Services" means such services as may be notified by the Public Authority under Section 3;
- (n) "Right to Service" means rights of an eligible person to obtain the public services within the stipulated time limit as notified by the Public Authority, from time to time;
- (o) "Stipulated time limit" means the time limit as notified under Section 3 within which the public service is to be provided by the Designated Officer to any eligible person.

Notification of Public Services, Designated Officers, Appellate Authorities and Stipulated Time Limit.

3. (1) The Public Authority shall, within a period of three months from the date of commencement of this Act, and thereafter from time to time, notify the public services rendered by it along with the concerned Designated Officers, the Appellate Authority and the stipulated time limit for providing such services.
- (2) The Public Authority shall, display or cause to be displayed on the notice board of the office and also on its website or portal, if any, or otherwise provide the details of the papers, documents, forms, if any, to be submitted and the fee to be paid for along with the details of the stipulated time limit, the name and contact details of the Designated Officers and the prescribed procedure for availing of public services, by the eligible persons.
- (3) The Public Authority shall, appoint an officer superior in rank to the Designated Officer, to act as Appellate Authority to hear and decide the appeal filed by an officer against the rejection of his application or delay in providing public services and prescribe the procedure for filing the appeal.
- (4) The Public Authority shall, in writing, report compliance of the provisions in sub-section (1), (2) and (3) to the Commission, as soon as it may be, but not later than four months from the date of commencement of this Act.

Right to obtain services within stipulated time limit.

4. (1) Subject to the legal, technical and financial feasibility, every eligible person shall have right to obtain public services in the State in accordance with this Act, within the stipulated time limit.

- (2) Subject to the legal, technical and financial feasibility, every Designated Officer of the Public Authority shall provide the public services to the eligible person, within the stipulated time limit:

Provided that, the stipulated time limit may be relaxed or extended by the State Government during the period of elections, natural calamities or any such exigency, to such extent, for such period and for such services, as may be notified.

Providing Public Services within stipulated time limit.

5. (1) An application for obtaining public services may be made by any eligible person to the Designated Officer in accordance with the prescribed procedure. The receipt of an application shall be duly acknowledged and the applicant shall be intimated in writing or through electronic means, specifying date and place of receipt of application, unique application number along with stipulated time limit for the disposal of such application. The stipulated time shall be counted from the date when the requisite application complete in all respects, for obtaining the public service is received by the Designated Officer or a person who is duly authorized to receive the application, on his behalf.
- (2) The Designated Officer shall, on receipt of an application under sub-section (1), either directly provide or sanction the public service within the stipulated time limit or reject the application after recording the reasons in writing for such rejection. The Designated Officer shall communicate the reason for such rejection in writing to the eligible person. The Designated Officer shall also communicate in writing to the eligible person the procedure for and the period within which an appeal may be made against his decision and the name, designation, contact details and official address of the Appellate Authority.

Monitoring of the status of application.

6. (1) Every eligible person having applied for any public service shall be provided with a unique application number by the concerned Designated Officer. The status of the application shall be made available online, wherever such system is in operation, or should be made readily available to the eligible person, on demand.
- (2) Every Public Authority shall update the status of all applications regarding public services online, wherever such system is in operation, or shall provide the same to the applicant, on demand.

Use of Information Technology for delivery of public services.

7. The Government shall encourage all the Public Authorities to use information technology to deliver the irrespective public services, within the stipulated time limit by providing requisite infrastructure and resources and switch over to the online mode of delivery of public services, within the time frame, as may be prescribed:

Provided that the Commission, after consideration of the need for on boarding of any public service on the Information Technology (IT) platform and with due consultation of the Public Authority and the experts, may make recommendations to the Government.

Appeal.

8. (1) Any eligible person whose application is rejected under sub-section (2) of Section 5, or who is not provided the public service within the stipulated time limit, may file an appeal before the Appellate Authority within twenty working days from the date of receipt of the order of rejection of the application or the expiry of the stipulated time limit:

Provided that, the Appellate Authority may, in exceptional cases, admit the appeal even after the expiry of the period of thirty days, subject to the maximum period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) The Appellate Authority may, after summary examination of the application and relevant documents, direct the Designated Officer to provide the service to the eligible person within such period and in such manner as may be specified in the order, but not ordinarily exceeding the stipulated time limit; or may reject the appeal within the period of thirty days from the date of filing of the appeal, after recording the reasons in writing:

Provided that, before deciding the appeal, the Appellate Authority shall give an opportunity of being heard to the appellant as well as to the Designated Officer or his official representative duly authorized for this purpose.

Penalty imposed by the Appellate Authority.

9. The Appellate Authority shall, upon examination of the appeal leading to the conclusion that the Designated Officer has failed to provide public service in accordance with the provisions of this Act, without sufficient ground or a reasonable cause, impose a penalty of not less than rupees one thousand (Rs. 1000/-). In case of undue delay or hardship caused to the eligible person, a further penalty of rupees one hundred (Rs. 100/-) for every single working day of the delay shall be imposed:

Provided that, the total amount of penalty shall not exceed rupees ten thousand (Rs. 10,000/-) in each case and the Designated Officer shall be given a reasonable opportunity of being heard before imposition of the penalty:

Provided further that, the amount of penalty applicable may be revised and notified by the State Government, from time to time.

Constitution of Sikkim Public Service Delivery Commission.

10. (1) The State Government shall, by notification in the Official Gazette, constitute for the purposes of this Act, a Commission to be called as the Sikkim Public Service Delivery Commission.
- (2) The Commission shall consist of-
- (a) A Chairperson; and
 - (b) A maximum of two members.
- (3) The Chairperson and the members shall be appointed by the Governor on the recommendation of the State Government.

- (4) A person to be eligible for appointment to the post of Chairperson or member shall be a person of eminence in public life with wide knowledge and experience in Government Administration:

Provided that, the Chairperson should not be working or have worked below the level and rank of the Chief Secretary to the State Government:

Provided further that, a member should not be working or have worked below the level of Secretary to the State Government.

- (5) The general superintendence, direction, control and management of the affairs of the Commission shall vest in the Chairperson who shall exercise all such powers and do all such acts which may be exercised under the provisions of this act or which may be necessary in furtherance of the objectives of this Act:

Provided that, upon requisitioning by the Commission, the State Government shall assist to expeditiously create an office of the Commission with officers and staff as provided under Section 14 and provide suitable office space and necessary funds for the smooth working of the Commission.

- (6) The headquarters of the Commission shall be at Gangtok, Sikkim and it shall have jurisdiction over the entire State of Sikkim.

**Term of Office
and Condition of
Service.**

11. (1) The Chairperson and the members shall hold office for a term of 05 (five) years from the date on which they enter upon the respective offices, or until they attain the age of sixty-five years, whichever is earlier, and shall not be entitled for re-appointment.
- (2) The Chairperson and the members may, at any time, resign from their office by submitting a letter of resignation to the Governor.
- (3) The salaries and allowances and other terms and conditions of service of the Chairperson and the members including the status, admissible perks, facilities, and residential accommodation shall be the same as drawn or admissible in the last post held and shall not be less than those of the Chief Secretary to the State Government and the Secretary to the State Government, respectively. No pensionary benefits or other post-retirement benefits shall accrue from the posts of Chairperson and the members, as the case may be:

Provided that, if the Chairperson or the members, at the time of their appointment is in receipt of a pension in respect of any previous service under the State or the Central Government, their salary shall be reduced by the amount of that pension:

Provided also that, the salaries, allowances and other conditions of service of the Chairperson and the members shall not be altered to their disadvantages after their appointment.

**Removal of
Chairperson and
the member.**

12. (1) Notwithstanding anything contained in this Act, the Governor may, by order, remove from office the Chairperson or a member, if the Chairperson or the member, as the case may be,-
- (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence, which, in the opinion of the Governor, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson.

**Powers and
functions of
Commission.**

13. (1) The Commission shall oversee proper implementation of this Act and in this behalf, make recommendations to the State Government and the Public Authorities, from time to time. For this purpose, the Commission may-
- (a) take *suo motu* notice of failure to deliver public services in accordance with the provisions of this Act and refer such cases for disposal with such directions as it may deem appropriate;
 - (b) carry out inspections of the offices of the Designated Authority and the Appellate Authority or any other office entrusted with or associated with the delivery of public services;
 - (c) recommend disciplinary action in cases where any Designated Officer or Appellate Authority has been found to have failed in proper discharge of the functions cast on or entrusted to them, under this Act;
 - (d) examine the existing procedures for delivery of public services and make recommendations for making the delivery of service more transparent, faster and easier:

Provided that, before making such a recommendation, the Commission shall consult the Public Authority or the Head of the Department or office which is responsible for delivery of the public service;
 - (e) recommend any other steps or measures which in the opinion of the Commission are necessary for efficient delivery of public services;
 - (f) monitor delivery of the public services by Public Authorities;
 - (g) hear and decide the appeals filed before it under Section 16 and pass suitable orders.
- (2) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a Civil Court

while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons, compelling them to give oral or written evidence on oath and producing documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copies thereof from any court or office;
- (e) issuing summons for examination of witness or documents; and
- (f) any other matter which may be prescribed.

**Appointment of
Officers and Staff
of the
Commission.**

14. (1) The day today administration of the office of the Commission shall be carried out by the Secretary to the Commission, appointed by the Government in consultation with the Commission.
- (2) The officers for the Administrative, legal and finance wings of the Commission shall be appointed by the Commission from the panel of names recommended by the Government.
- (3) The required secretarial, ministerial and support staff shall be recruited and appointed by the Commission.
- (4) The salaries and allowances and the terms and conditions of appointment of the officers and staff of the Commission shall be such as may be prescribed by the Government.

**Action by
Government on
recommendations
of Commission.**

15. (1) The State Government shall consider the recommendations made by the Commission under clause (c), (d) and (e) of sub-section (1) of Section 13 and send a report of compliance or comments on the recommendations for further consideration by the Commission, within a period of thirty days or such time thereafter as may be decided in consultation with the Commission.
- (2) The Commission shall, after consideration of the comments so received and consultations with the Government, make final recommendations to the Government for consideration and compliance.
- (3) A report about the action taken on the recommendations of the Commission shall be placed by the Government on the table of the State Legislature, annually.

**Appeal to
Commission.**

16. (1) An eligible person or a Designated Officer being aggrieved by an order of the Appellate Authority may file an appeal before the Commission within a period of thirty days from the date of receipt of such order.

- (2) The Commission shall dispose of such appeal within a period of sixty days from the date of receipt of the appeal, after giving all concerned an opportunity of being heard. The Commission may impose further penalty on the Designated Officer or Appellate Authority or vary or cancel the penalty imposed and may order to refund such penalty paid, if any.
- (3) If the Commission, after due examination, is of the opinion that the Designated Officer had failed to provide service within the specified time and without a just and reasonable cause, may impose a penalty which shall not be less than rupees one thousand (Rs. 1000/-) but which may extend to rupees ten thousand (Rs. 10000/-), or of such amount, as maybe revised by the State Government, from time to time, by notification in the Official Gazette.
- (4) If the Commission, after due examination, is of the Opinion that a Appellate Authority has failed to hear and decide an appeal preferred before it within the specified time and without a just and reasonable cause or has unduly tried to protect the erring Designated Officer, may impose a penalty which shall not be less than rupees one thousand (Rs. 1000/-) but which may extend to rupees ten thousand (Rs. 10000/-), or of such amount, as maybe revised by the State Government, from time to time, by notification in the Official Gazette.
- (5) The Appellate Authority or the Designated Authority, as the case may be, shall be given a reasonable opportunity of being heard before imposing any such penalty.

**Procedure for
recovery of
Penalty.**

17. (1) The Commission shall communicate to the Appellate Authority or the Designated Officer, as the case may be, the order imposing the penalty in writing. The amount of penalty shall be deposited within a period of thirty days from the date of receipt of such communication, and in such manner as may be prescribed.
- (2) The Appellate Authority shall communicate to the Designated Officer the order imposing the penalty in writing. The amount of penalty shall be deposited within a period of thirty days from the date of receipt of such communication and in such manner as may be prescribed.
- (3) Upon failure to deposit the amount of penalty within 30 days by the Designated Officer or the Appellate Authority, the Competent Authority shall deduct the amount of penalty from the salary or recover it in any other manner as may be prescribed by the State Government:

Provided that, all such orders of the Appellate Authority shall be intimated to the Commission.

Procedure for fixing responsibility on Designated Officer for repeated failure.

18. (1) The Competent Authority, on its own or on receipt of a report from the Appellate Authority or the Commission about the repeated failures of the concerned Designated Officer to provide public services or repeated delays in providing public services or the repeated failure to comply with the direction of the Appellate Authority or the Commission, shall, within a period of fifteen days, issue a show-cause notice to the Designated Officer as to why a disciplinary action should not be initiated against him under the Discipline and Conduct Rules, as applicable.
- (2) The Designated Officer against whom such notice is issued may represent to the Competent Authority concerned, within a period of fifteen days from the date of receipt of such notice. In case no such representation is received by the Competent Authority within the specified period or explanation received is not found satisfactory, the Competent Authority shall proceed with the disciplinary action as laid down under the relevant service rules:

Provided that, if the Appellate Authority comes to the conclusion that the delay in or denial of delivery of services to the eligible person was not on account of the failure on the part of, or for the reasons attributable to the Designated Officer, it shall withdraw the notice against him:

Provided further, that the Commission shall be intimated about the action taken by the Competent Authority under this sub-section.

- (3) While fixing the responsibility on such Designated Officer under this Act, the Competent Authority shall follow the principles of natural justice before passing the order in that respect and give reasonable opportunity of being heard to the Designated Officer.
- (4) The repeated failure on the part of the Designated Officer to deliver public services within stipulated time limit shall be treated as misconduct and shall be proceeded with accordingly if the Commission for the reasons to be recorded in writing directs the Competent Authority to take such action under the relevant service rules.

Compliance of the Directions of the Commission.

19. (1) All officers holding the office of the Public Authority, Appellate Authority and the Designated Officer shall comply with the directions of the Commission issued under this Act within the specified time limits.
- (2) Non-compliance of the written directions or instructions of the Commission without valid reason shall constitute wilful disobedience and the Commission may, in its discretion, recommend action including initiation of disciplinary proceedings against the concerned officer under the relevant service rules. The State Government shall inform the Commission of the action taken in all such cases.

- Annual Report.** 20. (1) The Commission shall, after the end of each financial year, prepare an Annual Report of the preceding year and present the same to the State Government.
- (2) The State Government shall lay the annual report presented by the Commission before the State Legislature.
- Developing culture to deliver public services within stipulated time limit.** 21. (1) All Public Authorities shall continually examine the existing systems and processes for providing public services, evaluate the list of various certificates, documents, affidavits, etc., required for obtaining the public services and the paper work involved for the application to be processed, with an emphasis on simplification of the procedures. The Public Authority shall, to the extent possible, make efforts to obtain requisite information directly from other Departments or Public Authorities.
- (2) All the Designated Officers and Appellate Authorities shall undergo periodic training for sensitization towards delivery of public services and to enhance their capacity for effective and time bound delivery of service in a people friendly manner. The State Government shall facilitate the training for all concerned officers. It shall be part of the syllabus for the induction training or the foundation course of the officers or employees at the time of joining the government service or mid-career training.
- (3) To encourage and enhance the efficiency of the Designated Officer and the Public Authority, the State Government may institute a system of rewards or grant cash incentive of such amount as may be notified, to a Designated Officer who has performed well with no delays or defaults reported during the period under review. A Certificate of Appreciation may be issued which shall form part of the service record of the concerned officer.
- (4) The State Government shall give appropriate awards and felicitate the Public Authorities and Designated Officers for their performance and efforts in achieving the purpose of this Act, on special occasions.
- Allocation of Funds.** 22. The State Government shall, upon requisitioning by the Commission, allocate adequate funds for salary and emoluments of officers and staff of the Commission, smooth operation of the office of the Commission, training and for any activity associated with the implementation of, or incidental to the provisions of this Act.
- Provisions to be supplemental to disciplinary rules.** 23. The provisions of this Act relating to imposition and recovery of penalty and initiation of disciplinary action shall be supplemental to the applicable financial rules and such other service rules and regulations as may be applicable to the employees of the State Government.
- Power of Government to issue directions.** 24. The State Government may issue to the Public Authority such general or special directions in writing for the purpose of effective implementation of this Act and the Public Authority shall be bound to follow and act upon such directions.

**Protection of
action taken in
good faith.**

25. No suit, prosecution or other legal proceedings shall lie against any person for anything done or purported to have been done in good faith in pursuance of the provisions of this Act or the rules made there under.

**Bar of
Jurisdiction.**

26. No Civil Court, tribunal or other authorities shall have jurisdiction in respect of any matter which the Commission and the Appellate Authorities are empowered by or under this Act to determine.

**Act to override
other laws.**

27. In relation to the services notified under this Act and its implementation, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any rules having effect by virtue of any law other than this Act.

**Power to make
rules.**

28. (1) The Government may by notification in the Official Gazette, make rules to carry out the purposes of this Act.
(2) Every rule made under this Act, shall be laid, as soon as may be, after it is made, before the State Legislature.

**Power to remove
difficulties.**

29. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:
Provided that, no such order shall be made after the expiry of a period of two years from the commencement of this Act.
(2) Every order made under sub-section (1) shall be laid, as soon as maybe, after it is made, before the State Legislature.

**Suraj Chettri (SSJS),
L.R.-cum-Secretary,
Law & Parliamentary Affairs Department.**